



Deval L. Patrick, Governor
Timothy P. Murray, Lt. Governor
Richard A. Davey, MassDOT Secretary & CEO
Jonathan R. Davis, Acting General Manager
and Rail & Transit Administrator



June 28, 2012

**SUBJECT: Request for Qualifications
MBTA Commuter Rail Procurement
Addendum No. 1**

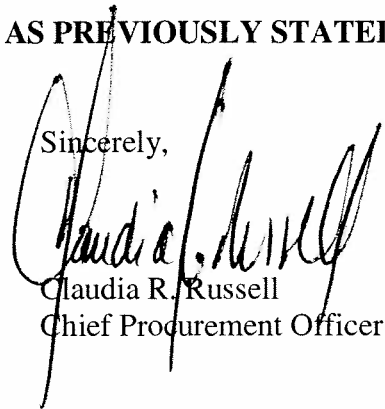
Dear Sir/Madam:

Please be advised that the above has been amended and clarified as shown on the attached and made a part herein.

Acknowledgement of receipt of this Addendum must be noted in your Statement of Qualifications submittal in accordance with Section 5.3.1 (page 16).

ALL ELSE REMAINS AS PREVIOUSLY STATED

Sincerely,



Claudia R. Russell
Chief Procurement Officer



Deval L. Patrick, Governor
Timothy P. Murray, Lt. Governor
Richard A. Davey, MassDOT Secretary & CEO
Jonathan R. Davis, Acting General Manager
and Rail & Transit Administrator



June 28, 2012

Addendum No. 1 to Request for Qualifications: Commuter Rail Procurement

This Addendum No. 1 makes the following revisions to the above-referenced Request for Qualifications (the "RFQ"):

1. Section 3.3.1.1(C), which currently reads as follows:

All transportation services, including train operation; dispatching; adapting to technological change where appropriate; scheduling; staffing; training; revenue collection and accounting; ticketing and customer service; incident management and reporting; special and excursion train operation; management and supervision; severe weather preparation, recovery planning and implementation; rule book compliance; engineer and conductor certification and periodic re-certification; hiring and qualification; labor relations; and compliance with all applicable federal, state, local regulatory requirements, severe weather preparation, recovery planning and implementation;

Is hereby deleted in its entirety and replaced with the following:

All transportation services, including train operation; dispatching (which may include, but not be limited to, providing all dispatching services from the MBTA's South Station); adapting to technological change where appropriate; scheduling; staffing; training; revenue collection and accounting; ticketing and customer service; incident management and reporting; special and excursion train operation; management and supervision; severe weather preparation, recovery planning and implementation; rule book compliance; engineer and conductor certification and periodic re-certification; hiring and qualification; labor relations; and compliance with all applicable federal, state, local regulatory requirements, severe weather preparation, recovery planning and implementation;

2. The chart included in Section 4.3 (Procurement Schedule) of the RFQ, which reads as follows:

Activity	Due Date
Issue Request for Qualifications	May 25, 2012
Pre-Statement of Qualifications Informational Meeting	June 12, 2012
Final Date for Receipt of Proposer's Questions	June 21, 2012
Issue Date for Final Addendum and/or Answers to Proposer's Questions	June 28, 2012
Statement of Qualifications Due Date	July 12, 2012
Short-List Announced	August 21, 2012
Issue Draft Request for Proposals	August 21, 2012
Issue Request for Proposals	September 25, 2012
Proposal Due Date	February 21, 2013
Selection	June 13, 2013

Is hereby deleted in its entirety and replaced with the following:

Activity	Due Date
Issue Request for Qualifications	May 25, 2012
Pre-Statement of Qualifications Informational Meeting	June 12, 2012
Final Date for Receipt of Proposer's Questions	June 21, 2012
Issue Date for Final Addendum and/or Answers to Proposer's Questions	June 28, 2012
Statement of Qualifications Due Date	July 26, 2012
Short-List Announced	September 4, 2012
Issue Draft Request for Proposals	September 4, 2012
Issue Request for Proposals	October 9, 2012
Proposal Due Date	February 21, 2013
Selection	June 13, 2013

3. A new Section, Section 4.7 (Proposal Stipend) is hereby inserted into the RFQ, which reads:

4.7 Proposal Stipend

The MBTA may provide a stipend to Proposers on the Short-List. The stipend amount and conditions for receipt will be disclosed to Proposers in the RFP. The MBTA has the authority to use the concepts contained in the Proposal of any Proposer that accepts a stipend.

4. Section 5.2 (Formatting Requirements), which reads as follows:

The SOQ must be limited to no more than 50 pages in Sections 3 through 7 of the SOQ (see Appendix A), including required forms but exclusive of dividers and appendices. The 50

page limit excludes the information submitted in response to Sections 5.3.2.1 (Legal) and 5.3.2.2 (Financial). One signed original copy and nine copies of the SOQs and appendices must be provided. The signed original copy must be identified as the original on the cover(s) and marked as "Copy 1 of 10 Copies." All copies must be provided in loose-leaf binders. Bound copies will not be accepted. Each copy must be identified on the cover(s) as "Copy # of 10 Copies." The document must be organized to correspond with the outline presented in Appendix A.

Is hereby deleted in its entirety and replaced with the following:

The SOQ must be limited to no more than 50 pages in Sections 3 through 7 of the SOQ (see Appendix A), including required forms but exclusive of dividers and appendices. The 50 page limit excludes the information submitted in response to Sections 5.3.2.1 (Legal) and 5.3.2.2 (Financial). One signed original copy and nineteen copies of the SOQs and appendices must be provided. The signed original copy must be identified as the original on the cover(s) and marked as "Copy 1 of 20 Copies." All copies must be provided in loose-leaf binders. Bound copies will not be accepted. Each copy must be identified on the cover(s) as "Copy # of 20 Copies." The document must be organized to correspond with the outline presented in Appendix A.

5. Section 5.3.2.1(B)(2) of the RFQ, which reads as follows:

The Proposer must provide evidence that the Proposer and each of its members, if it is a JV, LLC, or partnership, are chartered in the Commonwealth of Massachusetts or hold a Foreign Corporation Certificate;

Is hereby deleted in its entirety and replaced with the following:

The Proposer must provide evidence that the Proposer and each of its members, if it is a JV, LLC, or partnership, are chartered in the Commonwealth of Massachusetts or hold a Foreign Corporation Certificate, or, to the extent the JV, LLC or partnership has not been formed as of the date the submission of the SOQ, evidence that each member comprising the proposed JV, LLC or partnership are chartered in the Commonwealth of Massachusetts or hold a Foreign Corporation Certificate;

6. The reference to the Section in the RFQ addressing past performance included in the sixth sentence of the second paragraph of Section 5.3.2.7(B) of the RFQ, which reads, in part, as follows:

*With respect to the information solicited in this Section
5.3.2.6 (Past Performance), failure...*

Is hereby deleted in its entirety and replaced with the following:

*With respect to the information solicited in this Section
5.3.2.7 (Past Performance), failure...*

7. The following sentence located on page A-1 in the third paragraph of Appendix A to the RFQ, which reads as follows:

The six sections must be placed together in one three-ring binder.

Is hereby deleted in its entirety and replaced with the following:

The seven sections must be placed together in one three-ring binder.

8. Appendix C, which is titled "Appeal/Protest Procedures", is hereby deleted in its entirety and replaced with Appendix C, which is attached hereto and identified as "Appendix C: Appeal/Protest Procedures."

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**MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY**

PASSENGER RAIL PROCUREMENT

**REQUEST FOR QUALIFICATIONS
APPENDIX C**

APPEAL/PROTEST PROCEDURES

Revised April 4, 1996
re: FTA Circular 4220.1C

Revised June, 1996
re: FTA Circular 4220.1D

Revised February 2002

Revised April 14, 2009
re: FTA Circular 4220.1F

Revised May, 2012
re: FTA Circular 4220.1F

Appeal/Protest Procedures

A. INTRODUCTION

The following procedures apply to all MBTA procurements, including those that originate from and are the responsibility of the Materials Management Department (Goods and Services Purchases) and the Design and Construction Department (Construction and Professional Services contracts). Interested parties (Interested Party means an actual or prospective bidder, proposer or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract) must follow the procedures specified for the particular procurement that is being appealed/protested. In the event that an interested party has an appeal/protest for a procurement/contract that involves an area of responsibility not identified herein, the appeal/protest must be sent to the MBTA's Chief of Staff, General Manager's Office, Ten Park Plaza, Boston, for review. A protest will be processed in the time frames and structure as specified below. In addition, the MBTA will disclose information regarding the protest to the Federal Transit Administration (FTA) in writing and notify them informed of any changes or developments affecting the status of the protest.

B. PRE-BID APPEALS – CONSTRUCTION AND PROFESSIONAL SERVICES

1. If it is the opinion of any interested party that the Specifications/Scope of Work or any other requirement of the proposed procurement are in any way ambiguous, incorrect, incomplete or restrictive, the interested party shall contact the Authority, in writing, via U.S. Mail and facsimile, at least ten (10) business days prior to the bid opening date or proposal submittal date. The letter should be addressed to the Director of Contract Administration of the MBTA at 10 Park Plaza – Room 6720, Boston, MA 02116. The letter should identify the procurement that is underway (Contract/RFP number and description) and the specific issue to be addressed. Any protest about the content of a specification is waived if not filed prior to the bid opening or proposal submittal date. The Director of Contract Administration will review the interested parties protest and will respond, in detail, to each substantive issue raised by the interested party within three (3) business days. If the matter requires further evaluation, the Director of Contract Administration will notify the protesting party in writing (by facsimile and U.S. Mail) of the extended review period. A final response will be issued by the Director of Contract Administration upon final review of the matter. One of the following steps will be taken prior to the bid opening date or proposal submittal date:
 - a. The Authority may elect to conduct an informal conference on the merits of a protest with interested parties;
 - b. If, upon review, the Authority determines that a change should be made to the specification and/or the bid documents, an addendum will be issued to all interested parties;
 - c. If the Authority determines that no change should be made to the specification and/or the bid documents, but that it is necessary to clarify any point made by the interested party, a Letter of Clarification will be issued to all interested parties; or
 - d. If the Authority determines that neither a change nor a clarification should be made to either the specification or the bid documents, then, the interested party should be notified in a timely fashion in writing (by facsimile and telephone, if possible) of the Authority's determination.

2. If the interested party does not believe that the response addressed his/her concerns, he/she may appeal this decision to the General Counsel, in writing, prior to the bid opening date or the proposal submittal date. The matter will be reviewed and a response will be made in accordance with steps a. through d. above. The bids or proposals may be opened and the Authority may elect to proceed with an award during the pendency of a protest, if the Authority determines that:
 - a. The items to be procured are urgently required; or
 - b. Delivery or performance will be unduly delayed by failure to make the award promptly; or
 - c. Failure to make prompt award will otherwise cause undue harm to the MBTA.
3. ONCE THE GENERAL COUNSEL'S DETERMINATION HAS BEEN MADE, THE AUTHORITY'S DECISION IS FINAL AND WILL NOT BE RECONSIDERED UNLESS THERE IS ADDITIONAL INFORMATION WHICH WAS NOT AVAILABLE TO THE APPEALING PARTY AT THE TIME THE APPEAL WAS MADE.

C. POST-BID APPEALS – CONSTRUCTION & PROFESSIONAL SERVICES

1. Post -Bid appeals by an interested party shall be made in writing via U.S. Mail and facsimile within three (3) business days of the bid opening date or the notification date of a selected proposer and shall be made as follows:
 - a. The initial protest or appeal shall be made to the Director of Contract Administration of the MBTA at 10 Park Plaza – Room 6720, Boston, MA 02116 who will collect the factual information pertaining to the appeal.
 - b. After discussion and appropriate -review, the Director Contract Administration will forward a recommendation to the Assistant General Manager for Design and Construction (AGM).
 - c. If the AGM does not concur with the recommendation-, the AGM will obtain any other additional information required so that a determination can be made, at which time the interested party will be notified in writing of the Authority's determination within five (5) business days. If the matter requires further evaluation, the AGM will notify the protesting party in writing (by facsimile and U.S. Mail) of the extended review period. A final response will be issued by the AGM upon final review of the matter.
 - d. If the interested party does not agree with the determination, he/she may appeal directly to the Authority's General Counsel in writing within three (3) business days of the AGM's determination.
 - e. The General Counsel will review all facts of the appeal and will make a final determination and will advise the interested party of his decision within five (5) business days. If the matter requires further evaluation, the General Counsel will notify the protesting party in writing (by facsimile and US Mail) of the extended review period. A final written response will be issued by the General Counsel upon final review of the matter.
2. ONCE THE GENERAL COUNSEL'S DETERMINATION HAS BEEN MADE, THE AUTHORITY'S DECISION IS FINAL AND WILL NOT BE RECONSIDERED UNLESS THERE IS ADDITIONAL INFORMATION WHICH WAS NOT AVAILABLE TO THE APPEALING PARTY AT THE TIME THE APPEAL WAS MADE.

D. GENERAL INSTRUCTIONS/INFORMATION

1. In the event that the subject contract procurement is federally funded, all prospective interested parties are notified of the following:
 - a. FTA's review of the protest will be limited to the MBTA's failure to have or follow its written protest procedures. The appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation. The protest/appeal is to be in accordance with FTA Circular 4220.1F (as periodically updated).
 - b. Note: The interested party must exhaust all administrative remedies with the MBTA before electing to pursue a protest with the Federal Transit Administration (FTA).
2. In the event that a protest is pending:
 - a. The MBTA reserves the right to proceed with the procurement, which may include the opening of bids or proposals and the subsequent award of a contract, regardless of the existence of a protest that is pending, in the event that a determination has been made that:
 1. The supplies or services to be contracted for are urgently required;
 2. Delivery or performance will be unduly delayed by failure to make award promptly;
 3. Failure to make a prompt award will otherwise cause undue harm to the MBTA or the Federal Government.
 4. If award is made, the procurement file will be documented to explain the basis of award. Written notice of the decision to proceed with the award will be sent to the protester and other interested parties.

E. PRE-BID APPEALS – GOODS AND SERVICES

1. General: If it is the opinion of any interested party that the specifications are in any way ambiguous, incorrect, incomplete, or restrictive, the interested party shall contact the Authority, in writing via U.S. mail and facsimile, at least five (5) business days, or in the case of designated large procurements, ten (10) business days prior to the bid opening date. The letter should identify the procurement that is underway (IFB/RFP number and description) and the specific issue that is to be addressed. The Chief Procurement Officer will review the interested parties protest and will respond, in detail, to each substantive issue raised by the interested party. One of the following steps will be taken prior to the bid opening date:
 - a) The Authority may elect to conduct an informal conference on the merits of a protest with interested parties.
 - b) If, upon review, the Authority determines that a change should be made to the specification and/or the bid documents, an addendum will be issued to all interested parties.

- c) If the Authority determines that no change should be made to the specification and/or the bid documents, but that it is necessary to clarify any point made by the interested party, a Letter of Clarification will be issued to all interested parties.
- d) If the Authority determines that neither a change nor a clarification should be made to either the specification or to the bid documents, then the interested party shall be notified in a timely fashion in writing (by facsimile and telephone if possible) of the Authority's determination.

If the interested party does not believe that the response addresses his/her concerns, he/she may appeal the decision to the General Counsel, in writing, prior to the bid opening date. The matter will be reviewed and a response will be made in accordance with steps a) through d) above. The bids may be opened and the Authority may elect to proceed with an award during the pendency of a protest, if the Authority determines that:

- A. The items to be procured are urgently required; or
- B. Delivery or performance will be unduly delayed by failure to make the award promptly; or
- C. Failure to make prompt award will otherwise cause undue harm to the MBTA.

F. POST-BID APPEALS – GOODS AND SERVICES

1. Post-bid appeals or protests from any interested party shall be made, in writing via U.S. Mail and facsimile, within three (3) business days of the bid opening date and/or the Notice of Award Determination date and shall be made as follows:
 - a) The protest or appeal shall be made to the Chief Procurement Officer who will review the matter and notify the interested party in writing of the Authority's determination within five (5) business days. If the matter requires further evaluation, the Chief Procurement Officer will notify the protesting party in writing (by facsimile and U.S. mail) of the extended review period. A final response will be issued by the Chief Procurement Officer upon final review of the matter.
 - b) If the interested party does not agree with the Chief Procurement Officer's determination, he/she may appeal to the Authority's General Counsel in writing within three (3) business days of the Chief Procurement Officer's determination.
 - c) The General Counsel will review all facts of the appeal and will notify the interested party of his decision within five (5) business days. If the matter requires further evaluation, the General Counsel will notify the protesting party in writing (by facsimile or U.S. mail) of the extended review period. A final response will be issued by the General Counsel upon final review of the matter.

Once the General Counsel's determination has been made, the Authority's decision is final and will not be reconsidered unless there is additional information which was not available to the appealing party at the time the appeal was filed.

2. In the event that a protest is filed prior to award:

The MBTA reserves the right to proceed with the procurement, which may include the opening of bids and the subsequent award of a contract, regardless of the existence of a protest that is pending, in the event that a determination has been made that:

- a. The supplies or services to be contracted for are urgently required; or
 - b. Delivery or performance will be unduly delayed by failure to make award promptly; or
 - c. Failure to make prompt award will otherwise cause undue harm to the MBTA or the Federal Government.
3. If award is made, the procurement file will be documented to explain the basis for the award. Written notice of the decision to proceed with the award will be sent to the protestor and other interested parties. Interested parties may elect to issue a protest to the FTA if the interested party reasons that the MBTA failed to have or follow written protest procedures. Such protests to FTA must be filed in accordance with FTA Circular 4220.1F.

- G.** The Common Grant Rule assigns responsibility to recipients of FTA funds for resolving all contractual and administrative issues arising out of third party procurements, including source evaluation and selection, protest of awards, disputes, and claims. FTA charges the recipient with the initial responsibility to resolve protests of third party contract awards. FTA expects each recipient to have appropriate written protest procedures as part of its requirement to maintain or acquire adequate technical capacity to implement the project.

The Common Grant Rule also requires FTA grant recipients to notify FTA when it receives a third party contract protest, and to keep FTA informed about the status of the protest. Recipients are expected to provide FTA with the following information:

- 1) Subjects: A list of protests involving third party contracts and potential third party contracts that:
 - a) Have a value exceeding \$100,000 or
 - b) Involve a controversial matter, irrespective of amount, or
 - c) Involve a highly publicized matter, irrespective of amount.
- 2) Details: The following information about each protest:
 - a) A brief description of the protest,
 - b) The basis of disagreement, and
 - c) If open, how far the protest has proceeded, or
 - d) If resolved, the agreement or decision reached, and
 - e) Whether an appeal has been taken or is likely to be taken.
- 3) When and Where: The recipient should provide this information:
 - a) In its next quarterly Milestone Progress Report, and
 - b) At its next Project Management Oversight Review, if any.
- 4) FTA Officials to Notify: When a recipient denies a bid protest, and especially if an appeal to FTA is likely to occur, FTA expects the recipient to inform the FTA Regional Administrator for the Region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the recipient to keep its FTA project manager informed about protests with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.

Massachusetts Bay Transportation Authority

If a protest is filed prior to award, all firms sent a copy of the bid documents or firms that have been issued a formal proposal number will be notified of the pending protest.

Massachusetts Bay Transportation Authority

MBTA Responses to Form RFQ-C Questions

This document contains the MBTA's responses to Proposers' questions submitted pursuant to the Form RFQ-C issued in connection with the Request for Qualifications (RFQ) for the Massachusetts Bay Transportation Authority Commuter Rail Procurement.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
1	2.2	Under the MBTA's definition of 'Proposer,' does the 'Proposer' currently have to be a rail carrier as defined in Federal law, including for the purposes of Title 45 and Title 49 of the United States Code?	The MBTA considers this question ambiguous in that "currently" is not defined. The MBTA assumes, for purposes of responding to this question, that the Proposer is asking whether Proposers submitting SOQs must be "rail carriers" as defined by Federal law. Based on this assumption, the MBTA states that Proposers submitting SOQs are <u>not</u> obligated to be "rail carriers" as defined by Federal law.
2	2.2	Will the successful Proposer upon assumption of operation of the MBTA commuter rail system be subject to the Federal Employers' Liability Act, the Railroad Retirement Act, and the Railway Labor Act including Section 13(c) provisions related to employee protection?	This question is not appropriate at the RFQ phase, and the MBTA invites the Proposer to resubmit the question during the RFP phase should it be selected as a short-listed Proposer.
3	3.3.1.1(C)	Under the inclusion of Commuter Rail Services, Section C lists "all transportation services" and includes "scheduling." Does this mean the Proposer will be free to set and alter existing schedules?	This question is not appropriate at the RFQ phase, and the MBTA invites the Proposer to resubmit the question during the RFP phase should it be selected as a short-listed Proposer.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
4	3.3.1.2	This Section also lists “staffing”. Will the MBTA require minimum staffing requirements for both agreement and non-agreement employees?	This question is not appropriate at the RFQ phase, and the MBTA invites the Proposer to resubmit the question during the RFP phase should it be selected as a short-listed Proposer.
5	3.3.2.2	It says that “the MBTA will be receptive to additional suggestions from the contractor for the development of additional sources of revenue”. Will the MBTA allow the contractor to control parking, real estate and advertising in stations and trains?	This question is not appropriate at the RFQ phase, and the MBTA invites the Proposer to resubmit the question during the RFP phase should it be selected as a short-listed Proposer.
6	3.5	What are the expected requirements for the performance and payment bond (or other acceptable form of security to the MBTA)?	This question is not appropriate at the RFQ phase, and the MBTA invites the Proposer to resubmit the question during the RFP phase should it be selected as a short-listed Proposer.
7	4.3	The issue date for the Draft RFP and the issue date for the Final RFP leave only approximately a month for industry review. Additionally, there are no dates listed for a Questions and Answer period after the issuance of the Draft RFP. Does the MBTA expect to have a Q&A period and conduct an industry review process with the incorporation of the industry review comments within this timeline?	The MBTA currently anticipates conducting an industry review between the issuance of the draft RFP and the issuance of the final RFP, with question and answer periods for the short-listed Proposers to follow after issuance of the final RFP. With that said, the MBTA will provide short-listed Proposers with additional information at the appropriate time.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
8	5.3	It is stated that “any material modification to the forms may result in the SOQ being declared non-responsive”. When using form E-1 to discuss a particular contract or experience, will expanding the form to more than one page be viewed as a “material modification”?	Additional pages may be added to a form should a Proposer feel that more space is required in order to provide a complete response. Proposers should note, however, that pursuant to Section 5.2 (Formatting Requirements), Proposers are limited to no more than 50 pages in Sections 3 through 7 of the SOQ. Moreover, as set out in Section 5.3 (Statement of Qualifications, Organizational and Content Requirements), “[l]engthy narratives containing extraneous information are discouraged.”
9	5.3.2.5(B)	It is stated that “the Proposer must provide no more than ten and a minimum of two descriptions of past experience or operating contracts per each member firm of the Proposer’s team highlighting relevant experience...” If a Proposer has more than one member firm, is it the MBTA’s intent to have ten total experiences or up to ten per member firm?	Proposers should submit between two and ten descriptions of past experience or operating contracts <u>per</u> member firm of the Proposer’s team. For example, if a Proposer’s team consists of two members, then the Proposer should provide between four and twenty descriptions of past experience or operating contracts, with a minimum of two descriptions of past experience or operating contracts for each member firm.
10	5.3.2.7(B)	It says “with respect to the information solicited in this Section 5.3.2.6 (Past Performance)...” 5.3.2.6 is actually the Diversity Section. Does the MBTA intend to mean Past Performance as the referenced Section or Diversity?	Please see Addendum No. 1.
11	6.2.1.1	What are the specific criteria that determine whether the Legal and Financial Sections will receive a “pass”?	The MBTA encourages Proposers to review the RFQ in its entirety including, but not limited to, Section 5.3.2.1 (Legal) and Section 5.3.2.2 (Financial).

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
12	6.2.1.2, 6.2.2, 6.3	The MBTA set forth guidelines for each technical evaluation factor. In Section 6.2.1.2, these technical factors are weighted. Section 6.2.2 states “the ratings of each of the technical evaluation factors and the overall technical rating for the SOQ will be arrived at through a consensus process.” However, Section 6.3 states “Any SOQ that receives a consensus rating of less than acceptable(-) in one or more technical evaluation factors will not be eligible for inclusion on the Short –List.” Does a consensus rating of less than “acceptable(-)” in one or more of the technical factors supersede an overall consensus rating of “acceptable-” or better?	Pursuant to Section 6.3 (Determination of the Short-List), any Proposer that receives a consensus rating of "fail" on one or more of the pass/fail evaluation factors, or a consensus rating of less than "acceptable(-)" (i.e. an "unacceptable" rating) in one or more technical evaluation factors, will <u>not</u> be eligible for inclusion on the Short-List. Please note that not receiving a consensus rating of "fail" on either pass/fail evaluation factor or a consensus rating of less than "acceptable(-)" on any technical evaluation factor, does not guarantee inclusion on the Short-List.
13	Appendix A	Appendix A gives direction to package the SOQ into a cover letter and seven separate Sections, the second of which is financial. Section 5.3.2.2, page 19, states that “the Proposer shall package the information separately for each separate entity with a cover sheet identifying the name of the organization and its role in the Proposer’s organization” with regards to the financial. Given these two directives, is it the intent of the MBTA that the Financial Section within the SOQ will be further separated for each entity with a cover sheet?	Pursuant to Appendix A, page A-1 of the RFQ, SOQs must be packaged into a cover letter with separate sections. Please review Appendix A of the RFQ for additional information. Moreover, as set out in Section 5.3.2.2(B), Proposers must package the information separately for each separate entity with a cover sheet identifying the name of the organization, and its role in the Proposer’s organization. Accordingly, it is the MBTA’s intent that the subsection of the SOQ addressing the financial evaluation factor be further subdivided based on each entity within the Proposer’s organization along with a cover sheet identifying each subdivision.
14	Appendix A	Further to above, or is it the intent to have a Financial Section completely separate from the rest of the SOQ?	Please see the MBTA’s response to the preceding question.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
15	General	Would MBTA consider extending the RFQ response deadline by a minimum of two (2) weeks. This will allow potential teams to finalize appropriate agreements between the parties as well as between the team and specific subcontractors as needed.	The MBTA has considered this request, and refers Proposers to Addendum No. 1.
16	Form E-3	Form E-3 requires the specific listing of subcontractors. However, such specific information is usually reserved for the RFP process, not the RFQ process. Specific subcontract entities can be listed more effectively once the specific scope, nature and price are known based on pricing analysis. It will also allow bidders to find the most competent and competitive subcontractors to perform the relevant scopes of work. Furthermore, at the RFQ stage, does listing subcontractors exclude any future participation of other subcontractors on bidders' proposals? Some qualified subcontractors may become available after short listing and so could be of value to a bid as well as the offering to the MBTA. Subcontractors may also not have had the opportunity at this stage to find a team to support. We kindly suggest that teams' experience working with subcontractors is evaluated at the RFQ stage rather than requesting a specific list of subcontractors.	Pursuant to Section 5.3.2.5(B)(3), Proposers are required to identify "subcontractors (including consultants) that the Proposer plans to use, to the extent they are known, indicating what type of work such subcontractor is anticipated to perform." [emphasis added]. Accordingly, the MBTA does not anticipate, or require, that Proposers provide an exhaustive or final list of subcontractors and consultants that they will engage in connection with the Contract. The MBTA recognizes that subcontractors and consultants other than those identified in SOQs may be engaged (and subcontractors and consultants identified in SOQs may not be engaged) after submission of SOQs.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
17	Section 5.3.2.1	Keolis Rail Services America, LLC (“KRSA”) and its majority shareholder, Société Nationale des Chemins de fer Français (“SNCF”) expect to submit a Proposal on behalf of a limited liability company (“LLC”) to be formed between themselves. The LLC will be formed upon award of the Contract, and KRSA will hold the majority equity interest in the LLC and will control the LLC. Please confirm that under these circumstances KRSA and SNCF can submit an SOQ on behalf of the LLC if KRSA and SNCF hold Massachusetts Foreign Corporation Certificates and otherwise comply with information requests set forth in Section 5.3.2.1.	Please see Addendum No. 1.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
18	Section 5.3.2.1	Please confirm that a proposal on behalf of a KRSA-SNCF Limited Liability Company that has not yet been formed may satisfy the requirements of the SOQ by submitting a Memorandum of Understanding setting forth the material terms of the operating agreement intended to be executed between the members. Please confirm that the MOU and operating agreement may provide for changes in the equity structure between the members so long as KRSA retains majority ownership and control of the LLC	The MBTA confirms that submitting a Memorandum of Understanding stating the terms of the LLC operating agreement may be sufficient for purposes of complying with specific criteria outlined in Section 5.3.2.1(B)(c) of the RFQ. The objective of the legal evaluation factor set out in Section 5.3.2.1 (Legal) of the RFQ is to "identify legally constituted Proposers able to submit responsive Proposals and enter into the Contract and perform under the Contract." Although the MBTA reserves the right to evaluate specific language contained in a submitted Memorandum of Understanding to determine whether it complies with the MBTA's objective, the proposed question (i.e. whether changes in the equity structure between preexisting members of an LLC are acceptable if one retains majority ownership and control) does not appear to be inconsistent with the MBTA's stated objective.

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
19	Section 5.3.2.2	Please confirm that financial statements for KRSA and SNCF that were prepared by independent auditors in accordance with French law and International Financial Reporting Standards and stated in Euros will satisfy the requirements of financial statements required by the SOQ because audited financial statements in dollars prepared in accordance with GAAP standards are not available	Although the MBTA will consider financial statements that are prepared in accordance with principles other than US GAAP, Proposers should note that additional requirements for such statements apply. The MBTA encourages Proposers to carefully review Section 5.3.2.2 (Financial) of the RFQ including, but not limited to: (i) Section 5.3.2.2(B)(f) ("[f]inancial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must be accompanied with the original financial statement information"); (ii) Section 5.3.2.2(B)(g) ("[i]f financial statements are not available in US dollars, the Proposer must include summaries of the income statements and balance sheets for the applicable time periods converted to US dollars by a CPA"); and (iii) Section 5.3.2.2(B)(i) ("[i]f financial statements are prepared in accordance with principles other than US GAAP, a letter from the CPA, CFO, or treasurer of the applicable entity discussing the areas of the financial statements that would be affected by a conversion to US GAAP").

Request Number	Section	Question	Massachusetts Bay Transportation Authority Response
20	Section 5.3.2.3 B (1)(a)	Section 5.3.2.3 B (1) (a) requires a Proposer's candidate for General Manager to hold experience with operations compliant with applicable FRA and APTA standards. Please confirm that this requirement can be satisfied by experience in other countries under comparable standards under applicable regulatory regimes, e.g., Office of the Rail Regulator (United Kingdom – www.rail-reg.gov.uk); Eisenbahnbundesamt (Germany – www.eba.bund.de/EN); and Etablissement Public de Sécurité Ferroviaire.fr/gb)	The MBTA believes that having a General Manager with experience in FRA and APTA standards is important to the successful operation of the Commuter Rail, and will not consider candidates lacking this experience. Pursuant to Section 5.3.2.3(B)(1)(a) of the RFQ, the General Manager's experience (among other things) must "be reflective of operations that are compliant with the Federal Railroad Administration's 49 Code of Federal Regulations Chapter II, Parts 200-269 and the American Public Transportation Association's 'Manual of Standards and Recommended Practices for Rail Passenger Equipment'".